



# County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration  
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WILLIAM T FUJIOKA  
Chief Executive Officer

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MARK RIDLEY-THOMAS  
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Third District

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Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

May 10, 2011

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**DEPARTMENT OF PUBLIC WORKS: FIRE DEPARTMENT  
FIRE STATION 71  
MODERNIZATION/EXPANSION PROJECT  
CITY OF MALIBU  
RATIFICATION AND APPROVAL OF RETROACTIVE PAYMENTS  
SPECS. 6860; CAPITAL PROJECT NO. 70779  
(THIRD DISTRICT) (3 VOTES)**

**SUBJECT**

This action will ratify and approve the retroactive payments by the County of Los Angeles Fire District (Fire District) to BOA Architecture, formerly Black, O'Dowd & Associates, Inc., subsequent to the expiration of Professional and/or Technical Property Maintenance and Repair Services Contract (Master Agreement) No. 75067 on August 3, 2009.

**JOINT RECOMMENDATION WITH THE FIRE CHIEF THAT YOUR BOARD, ACTING AS THE GOVERNING BODY OF THE CONSOLIDATED FIRE PROTECTION DISTRICT:**

1. Ratify retroactive payments for \$45,709.30 previously made by the County of Los Angeles Fire District to BOA Architecture for design services performed subsequent to the expiration of the Professional and/or Technical Property Maintenance and Repair Services Contract No. 75067 on August 3, 2009.

*"To Enrich Lives Through Effective And Caring Service"*

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2. Approve and authorize the Fire Chief to make a retroactive payment for \$114,963.40 for design services rendered by BOA Architecture subsequent to the expiration of the Professional and/or Technical Property Maintenance and Repair Services Contract No. 75067 on August 3, 2009.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The purpose of the recommended actions is to obtain your Board's ratification of retroactive payments made to Black, O'Dowd & Associates, Inc. (BOA Architecture) by the Fire District in the aggregate amount of \$45,709.30 and to approve and authorize the Fire Chief to issue a retroactive payment in the amount of \$114,963.40 to BOA Architecture for design services performed for the Fire Station (FS) 71 Modernization/Expansion Project, subsequent to the expiration of Master Agreement No. 75067 on August 3, 2009.

This issue occurred due to a lack of proper management of the Master Agreement 75067 by the Fire District and the Department of Public Works' (Public Works) failure to confirm that BOA Architecture's Master Agreement No. 75067 remained in effect prior to authorizing work.

### **Background**

On January 31, 2006, your Board authorized the Fire Chief to execute an architectural agreement with BOA Architecture for a not-to-exceed fee of \$150,000. Over the ensuing years, the scope of the project increased, and management of the Project was transferred to Public Works. On September 17, 2007, your Board authorized Public Works to execute Supplemental Agreement 1, which increased BOA Architecture's work authorization to \$488,000.

When Public Works undertook management of the BOA Architecture contract, its staff assumed that the BOA Architecture contract would expire when the contract's deliverables were accepted by the County, which would be consistent with all other Public Works capital project contracts. Based upon this assumption, Public Works' contract project administrator failed to realize that the Fire District's Master Agreement No. 75067 had a hard expiration date of August 3, 2009, and that any active work authorizations would expire after that date.

The Fire District notified Public Works of the expiration date of Master Agreement No. 75067 on September 20, 2010. On October 27, 2010, Public Works formally requested that BOA Architecture cease all work on the FS 71 Project and submit a final invoice for all services rendered. On November 8, 2010,

BOA Architecture submitted a final invoice for 80 percent construction documents (plans and specifications).

Public Works' failure to recognize the hard expiration date on the BOA Architecture contract and the Fire District's failure to advise Public Works of the situation prior to the expiration of Master Agreement No. 75067, precluded the proper extension of the contract term or procurement of a new architect for the Project and now requires retroactive approval of payments.

### **Ratification and Approval of Retroactive Contract Payments**

Six invoices, with a cumulative total of \$160,672.70, were submitted by BOA Architecture and approved by the Fire District and Public Works. The Fire District processed payment for three invoices with an aggregate total of \$45,709.30. Approval of the first recommendation will ratify these retroactive payments. The remaining three invoices, with a total of \$114,963.40, remain to be paid. Approval of the second recommendation will approve and authorize the Fire Chief to pay these invoices for work performed by BOA Architecture subsequent to expiration of Master Agreement No. 75067. A summary of the retroactive payments made towards BOA Architecture's Master Agreement No. 75067 is included in the Attachment.

### **Retroactive Contracts Review Committee**

The Fire District and Public Works met with the Retroactive Contracts Review Committee (RCRC) on January 27, 2011, to present the Corrective Action Plan (CAP) developed by the Fire District and Public Works to prevent the recurrence of future retroactive contracting in Fire District contracts that are utilized in projects managed by Public Works. The CAP was reviewed and approved by the RCRC with additional recommendations. Highlights of the approved corrective actions taken by Public Works and Fire District are as follows:

- When awarding a work order or capital projects work authorization (CPWA) against an as-needed design/consultant services agreement or master agreement that has an expiration date by which all work must stop, the Fire District and Public Works shall request that your Board amend the expiration date of the as-needed design/consultant services agreement or master agreement until which time all work activities awarded under the work order or CPWA are completed and/or terminated by the County.

- Project managers shall not issue a notice to proceed towards an as-needed design/consultant services agreement or master agreement that has expired and/or is set to expire prior to the completion of the work being authorized.
- When processing/approving an invoice/pay request issued against work order or CPWA awarded against an as-needed design/consultant services agreement or Fire District master agreement that has an expiration date by which all work must stop, the Fire District and Public Works shall verify the agreement is active prior to approving the invoice/pay request. Staff shall alert the appropriate project manager and consultant when an agreement with an expiration date is approaching 75 percent of the duration.
- Public Works' Architectural Engineering Division (AED) staff will be trained in eCAPS Contracting module and use its dashboard to monitor contract expiration dates and notify the project manager and consultant. AED is also developing a contract database, which will automatically alert the contract analyst when an agreement with an expiration date is 75 percent of the duration.
- The Fire District shall transmit all related and pertinent documents pertaining to any agreement when transferring projects to Public Works.
- The Fire District shall establish an internal procedure to alert the appropriate project manager 90 days prior to the expiration of an agreement.
- The Fire District project manager shall monitor the contract and approving process for contract payments and shall promptly notify Public Works in writing of any approvals on expired contracts.

In addition, Public Works will conduct necessary contract administration/monitoring training for staff in Project Management Divisions I and II and AED by June 30, 2011. The training will include a statement signed by staff acknowledging understanding of policies and procedures and that a violation may lead to disciplinary action.

#### **Implementation of Strategic Plan Goals**

The Countywide Strategic Plan directs the provision of Operational Effectiveness (Goal 1) by improving the efficiency, quality, and responsiveness of County services to all residents. Approval of this action will allow the Fire District and Public Works to close out BOA Architecture's Master Agreement No. 75067 by paying in full for all retroactively contracted work.

### **FISCAL IMPACT/FINANCING**

The \$160,672.70 in retroactively contracted work was included in Supplemental Agreement 1, approved by your Board on September 18, 2007. The cost of the services rendered by BOA Architecture did not exceed the not-to-exceed revised CPWA No. 70779-0506-100 amount of \$488,000.

The Project is fully funded by the Fire District's Accumulated Capital Outlay Fund. There is no impact to net County cost.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

On August 3, 2004, your Board authorized the Fire Chief to execute Master Agreement No. 75067 with BOA Architecture. The Master Agreement was executed by the Fire District on August 26, 2004. It was valid for a period of three years, with two 1-year optional extensions. On January 31, 2006, your Board awarded CPWA No. 70779-0506-100 to BOA Architecture to provide design services for the FS 71 Project. The CPWA was executed by the Fire District on February 21, 2006. On May 31, 2007, the Fire District issued Amendment 1 to Master Agreement No. 75067 extending its expiration date to August 2, 2008. On September 18, 2007, your Board authorized Public Works to execute Supplemental Agreement 1 to BOA Architecture's CPWA No. 70779-0506-100 changing the contract scope and amount. Public Works executed Supplemental Agreement 1 on October 16, 2007. On March 4, 2008, the Fire District issued Amendment 2 to Master Agreement No. 75067 extending its expiration date to August 3, 2009.

During the retroactive contracting period, six invoices with a cumulative total of \$160,672.70 were submitted by BOA Architecture and approved by the Fire District and Public Works.

### **ENVIRONMENTAL DOCUMENTATION**

The recommended action is not subject to the California Environmental Quality Act as it can be seen with certainty that the ratification and approval of the retroactive payments will not have an impact on the environment.

### **CONTRACTING PROCESS**

The applicable contracting process is discussed in detail above.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

There will be no impact on current County services or projects during the performance of the recommended services.

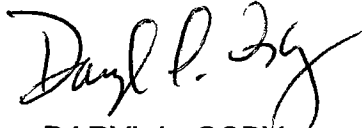
**CONCLUSION**

Please return one adopted copy of this letter to the Chief Executive Office, Capital Projects Division; Fire District; and the Department of Public Works, Project Management Division II.

Respectfully submitted,



WILLIAM T FUJIOKA  
Chief Executive Officer



DARYL L. OSBY  
Fire Chief

WTF:DLO:RLR  
DJT:SW:CY:zu

Attachment

- c: Executive Office, Board of Supervisors
- County Counsel
- Affirmative Action Compliance
- Auditor-Controller
- Fire District
- Public Works

May 10, 2011

**ATTACHMENT**

**DEPARTMENT OF PUBLIC WORKS: FIRE DEPARTMENT  
FIRE STATION 71 MODERNIZATION/EXPANSION PROJECT  
CITY OF MALIBU  
RATIFICATION AND APPROVAL OF RETROACTIVE PAYMENTS  
SPECS. 6860; CAPITAL PROJECT NO. 70779  
(THIRD DISTRICT) (3 VOTES)**

**I. RATIFICATION OF RETROACTIVE CONTRACT PAYMENTS**

Invoice	Scope	Amount
04-1993-15	Progress payment – relocation of seepage pit.	\$ 23,409.00
04-1993-17R	Progress payment – relocation of seepage pit.	\$ 15,269.30
04-1993-18	Progress payment – relocation of seepage pit.	\$ 7,031.00
	Total Amount Paid	\$ 45,709.30

**II. APPROVAL OF RETROACTIVE CONTRACT PAYMENTS**

Invoice	Scope	Amount
04-1993-19	Progress payment – 65 percent construction documents.	\$ 92,753.70
04-1993-20	Area maps and mailing labels.	\$ 805.00
04-1993-21	Progress payment – 80 percent construction documents.	\$ 21,404.70
	Total Amount Remaining to be Paid	\$ 114,963.40